

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 886 – HB 1304

March 16, 2015

**SUMMARY OF ORIGINAL BILL:** Provides a procedure for persons subject to 18 U.S.C. § 922(d)(4) because they have been adjudicated mentally incompetent, not guilty by reason of insanity, mentally defective, or judicially committed to a mental institution to have the disability removed as it relates to the ability to purchase firearms.

Requires courts to consider evidence in an open proceeding from the petitioner and the district attorney, whether in support or against the petition, regarding (1) the circumstances that led to the imposition of the firearms disability under 18 U.S.C. § 922(d)(4) and (g)(4); (2) the petitioner's mental health records; (3) the petitioner's criminal history; (4) the petitioner's reputation; and (5) changes in the petitioner's condition or circumstances relevant to the relief sought.

Courts shall grant petitions if they find by a preponderance of the evidence that the petitioner is no longer likely to act in a manner that is dangerous to public safety and granting the relief would not be contrary to the public interest.

A copy of the order shall be forwarded to the Tennessee Bureau of Investigation (TBI) which shall forward a copy to the Department of Safety; update the National Instance Criminal Background Check System (NICS) database and send corrected records to the Federal Bureau of Investigation; and remove and destroy all records relating to the petition for relief from any database over which the TBI exercises control.

Prohibits the Department of Safety from denying a handgun carry permit to persons who have had their firearm disability removed by an order issued pursuant to this act and a copy of the order has been provided to the department by the TBI or a certified copy is provided by the applicant.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue – \$1,900/Handgun Permit Division  
\$2,200/TBI

Increase State Expenditures – \$84,312/Recurring  
\$7,040/One-Time

Increase Local Revenue – \$600/Sheriffs

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**SUMMARY OF AMENDMENT (003675):** Requires a person to wait three years from the date of release or the date of the adjudication order, whichever is later, before petitioning a court to remove the firearms disability.

**FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

**Increase State Revenue – \$400/Handgun Permit Division  
\$400/TBI**

**Increase State Expenditures – \$42,400/Recurring  
\$3,500/One-Time**

**Increase Local Revenue – \$100/Sheriffs**

Assumptions for the bill as amended:

- Under current law, individuals adjudicated mentally defective or judicially committed to a mental institution are precluded from purchasing and possessing firearms.
- The bill would allow someone adjudicated mentally defective or judicially committed to a mental institution to petition the court to have the disability removed and their rights restored relative to purchasing and possessing firearms.
- Every petition filed must be sent to the district attorney of the jurisdiction. The district attorney must review the petition and decide whether to appear to support or object to the petition.
- Statistics from the Department of Mental Health show that there has been an average of 8,216 discharges each year over the last five years for individuals adjudicated mentally defective. The bill as amended require a person to wait three years from the date of release or the date of the adjudication order, whichever is later, before petitioning a court to remove the firearms disability. This will reduce the number of people who file petitions. Approximately 7,750 (approximately 94 percent) of the 8,216 discharges each year are from involuntary judicial commitments, who are likely to recommitted within three years for various reasons (e.g., stops taking medications, suffers a psychotic break, etc.).
- It is assumed that one percent ( $8,216 \times .01 = 82$ ) of the persons adjudicated mentally defective or judicially committed to a mental institution will successfully petition a court to remove the firearms disability after being released from treatment.
- The bill will increase the number of hearings conducted by the courts. It will also increase the workload of the District Attorney Generals Conference in reviewing the petitions to determine whether to support or oppose the petitions.
- The Administrative Office of the Courts reports that any increase in the courts' caseloads can be accommodated within existing resources.
- It is assumed that the District Attorneys General Conference will need to hire one clerical staff position to review the petitions and investigate petitioners' history of mental health.

- It is assumed that the clerical staffers will have a base salary and benefits of \$39,742.85 {[\$25,603.20 salary + (\$25,603.20 x .2287) benefits + (\$25,603.20 x .0765) FICA + \$6,325.56 insurance] and requires recurring costs of travel (\$400), professional services (\$240), supplies (\$400), rentals (\$1,600), and interagency charges (\$40). Total increase in recurring expenditures will be \$42,422.85.
- It is assumed that the clerical staffer will require \$3,520 in one-time expenditures for equipment.
- There will be an increase in handgun carry permits issued as a result of more persons having their rights restored for the purchase of buying firearms and by prohibiting the Department of Safety from denying handgun carry permits to these persons.
- It is assumed that 10 percent ( $82 \times .1 = 8$ ) of these individuals each year will have the disability removed and apply for a handgun carry permit.
- An applicant for a handgun carry permit must pay a \$115 fee, which is distributed as follows:
  - TBI – \$15 for their Automated Fingerprint Identification System (AFIS); \$38 to run a background check;
  - Local Sheriff – \$15 to run a background check;
  - Department of Safety – \$47 the balance of the fee remaining to the Handgun Permit Division.
- The bill will increase state and local revenue as follows:
  - TBI – \$424 (\$53 x 8 petitioners);
  - Sheriffs – \$120 (\$15 x 8 petitioners);
  - Safety – \$376 (\$47 x 8 petitioners).

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Jeffrey L. Spalding, Executive Director

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